

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:08CR383
)	
v.)	
)	
DEVIN ENRIQUES AND)	ORDER
MARQUITA JENSEN,)	
)	
Defendants.)	

This matter is before the court on defendants' motion to continue trial based on the unavailability of a witness, Filing No. [77](#). The court conducted a telephonic hearing on the motion on July 15, 2009. The government objects to the continuance. The defendant's motion is based on the availability of co-defendant Devin Enriques. Defendant Jensen seeks a continuance until after defendant Enriques is sentenced, arguing that, after his sentencing Enriques will not or cannot assert his Fifth Amendment rights. See Filing No. [77](#), Motion at 2. In consideration of the defendant's arguments, the court finds the motion should be granted, pending further development of defendant Enriques's position on the issue. On Monday, July 20, at 9:00 a.m. the court will hear argument on the issue of whether defendant Enriques can claim the Fifth Amendment after he is sentenced and the court will also address further scheduling issues, including rescheduling defendant Enriques's sentencing.

The Speedy Trial Act is tolled under 18 U.S.C. § 3161(h)(3)(A). Further, the court finds the interests of justice served by granting the continuance outweigh the best interest of the public and the defendant in a speedy trial. See 18 U.S.C. § 3161(h)(7)(A).

Accordingly,

1. This matter is set for trial on **October 5, 2009 at 9:00 a.m.**, Courtroom No. 3,
Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska

2. A hearing on the Fifth Amendment issue is set of **July 20, 2009, at 9:00 a.m.**
Defendant Enriques need not be present at the hearing, but his counsel shall appear.

DATED this 16th day of July, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge